

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 365 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 family law and juvenile law.
- 4 Page 1, delete lines 1 through 15.
- 5 Delete pages 2 through 23.
- 6 Page 24, delete lines 1 through 3.
- 7 Page 24, delete lines 12 through 42.
- 8 Delete pages 25 through 26.
- 9 Page 27, delete lines 1 though 3.
- 10 Page 28, line 41, reset in roman "and the office of the".
- 11 Page 28, line 42, reset in roman " secretary of family and social
- 12 services".
- 13 Page 29, delete lines 40 through 42.
- 14 Page 30 , delete lines 1 through 16.
- 15 Page 30, between lines 21 and 22, begin a new paragraph and insert:
- 16 "SECTION 5. IC 31-9-2-58.5 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 58.5. "Indicated", for
- 18 purposes of IC 31-33-8-12, means facts obtained during an
- 19 ~~investigation~~ **assessment** of suspected child abuse or neglect that:
- 20 (1) provide:
- 21 (A) significant indications that a child may be at risk for abuse
- 22 or neglect; or
- 23 (B) evidence that abuse or neglect previously occurred; and
- 24 (2) cannot be classified as substantiated or unsubstantiated."

1 Page 30, line 31, delete "either" and insert "**the**".

2 Page 35, delete lines 17 through 42.

3 Page 36, delete lines 1 through 25, begin a new paragraph and
4 insert:

5 "SECTION 13. IC 31-19-8-1, AS AMENDED BY P.L.138-2007,
6 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2009]: Sec. 1. An adoption may be granted in Indiana only
8 after:

9 (1) the court has heard the evidence; and

10 (2) except as provided in section 2(c) of this chapter, a period of
11 supervision, as described in section 2 of this chapter, by a
12 licensed child placing agency **for a child who has not been**
13 **adjudicated to be a child in need of services**, or if the **child is**
14 **the subject of an open child in need of services action**, ~~county~~
15 ~~office of family and children~~ **the local office** approved for that
16 ~~purpose by of~~ the department.

17 SECTION 14. IC 31-19-8-3, AS AMENDED BY P.L.145-2006,
18 SECTION 249, IS AMENDED TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The department shall
20 annually compile a list of

21 ~~(1) licensed child placing agencies and~~

22 ~~(2) county offices of family and children;~~

23 that conduct the inspection and supervision required for adoption of a
24 child by IC 31-19-7-1 and section 1 of this chapter.

25 (b) The list of licensed child placing agencies ~~and county offices of~~
26 ~~family and children~~ must include a description of the following:

27 (1) Fees charged by each agency. ~~and county office of family and~~
28 ~~children.~~

29 (2) Geographic area served by each agency. ~~and county office of~~
30 ~~family and children.~~

31 (3) Approximate waiting period for the inspection or supervision
32 by each **licensed child placing** agency. ~~and county office of~~
33 ~~family and children.~~

34 (4) Other relevant information regarding the inspection and
35 supervision provided by ~~an a licensed child placing~~ agency ~~or a~~
36 ~~county office of family and children~~ under IC 31-19-7-1 and
37 section 1 of this chapter.

38 (c) The department shall do the following:

39 (1) Maintain in its office ~~or on its web site sufficient~~ copies of
40 the list compiled under this section for distribution to individuals
41 who request a copy.

42 (2) Provide the following persons with sufficient copies of the list
43 prepared under this section for distribution to individuals who
44 request a copy:

45 (A) Each clerk of a court having probate jurisdiction in a
46 county.

(B) Each ~~county office of family and children:~~ **local office.**
 (3) Provide a copy of the list to each public library organized under IC 36-12.

(d) The department and each:

- (1) ~~county office of family and children;~~
- (2) ~~clerk of a court having probate jurisdiction in a county; and~~
- (3) ~~public library organized under IC 36-12;~~

shall make the list compiled under this section available for public inspection."

Page 36, delete lines 34 through 42.

Page 37, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 16. IC 31-19-8-5, AS AMENDED BY P.L.138-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (c), not more than sixty (60) days ~~from~~ **after** the date of reference of a petition for adoption to each appropriate agency, ~~each agency or the county office of family and children~~ **the licensed child placing agency, in the case of a child who is not adjudicated to be a child in need of services, or the local office of the department, in the case of a child who is the subject of an open child in need of services action**, shall submit to the court a written report of the investigation and recommendation as to the advisability of the adoption.

(b) ~~The agency's or county office of family and children's~~ report and recommendation:

- (1) shall be filed with the adoption proceedings; and
- (2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child

- (1) ~~may~~ **may** waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision. ~~under section 2(c) of this chapter; and~~
- (2) ~~may require the county office of family and children or a child placing agency to:~~

(A) ~~investigate any matter related to an adoption; and~~

(B) ~~report to the court the results of the investigation;~~

(d) If the court waives the reports required under subsection (a), the court shall require the ~~county office of family and children~~ **licensed child placing agency, in the case of a child who is not adjudicated to be a child in need of services, or, the local office of the department, in the case of a child who is the subject of an open child in need of services action, or a child placing agency** to:

- (1) ~~conduct~~ **ensure** a criminal history check is **conducted** under IC 31-19-2-7.5; and
- (2) report to the court the results of the criminal history check."

Page 37, line 29, delete "required by section 5 of this chapter".

- 1 Page 37, reset in roman line 33.
- 2 Page 37, line 33, after "place," insert "**as defined by the**
- 3 **department.**"
- 4 Page 37, line 38, reset in roman "(4)".
- 5 Page 37, line 38, delete "(3)".
- 6 Page 38, line 8, delete "report submitted under" and insert "report."
- 7 Page 38, line 9, delete "section 5 of this chapter."
- 8 Page 38, between lines 12 and 13, begin a new paragraph and insert:
- 9 "SECTION 19. IC 31-19-8-8, AS AMENDED BY P.L.138-2007,
- 10 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 JULY 1, 2009]: Sec. 8. The report and recommendation of the **licensed**
- 12 **child placing** agency or ~~county office of family and children local~~
- 13 **office of the department** are not binding on the court but are advisory
- 14 only."
- 15 Page 38, between lines 28 and 29, begin a new paragraph and insert:
- 16 "SECTION 21. IC 31-19-17-2, AS AMENDED BY P.L.129-2005,
- 17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2009]: Sec. 2. A person, a licensed child placing agency, or a
- 19 ~~county local office of family and children~~ placing a child for adoption
- 20 shall prepare a report summarizing the available medical,
- 21 psychological, and educational records of the person or agency
- 22 concerning the birth parents. The person, agency, or ~~county local~~ office
- 23 shall exclude from this report information that would identify the birth
- 24 parents. The person, agency, or ~~county local~~ office shall give the report
- 25 to:
- 26 (1) the adoptive parents:
- 27 (A) at the time the home study or evaluation concerning the
- 28 suitability of the proposed home for the child is commenced;
- 29 or
- 30 (B) with the consent of the adoptive parents, not more than
- 31 thirty (30) days after the child is placed with the adoptive
- 32 parents; and
- 33 (2) upon request, an adoptee who:
- 34 (A) is at least twenty-one (21) years of age; and
- 35 (B) provides proof of identification.
- 36 SECTION 22. IC 31-19-17-3, AS AMENDED BY P.L.1-2006,
- 37 SECTION 497, IS AMENDED TO READ AS FOLLOWS
- 38 [EFFECTIVE JULY 1, 2009]: Sec. 3. The person, licensed child
- 39 placing agency, or ~~county local office of family and children~~ shall:
- 40 (1) exclude information that would identify the birth parents; and
- 41 (2) release all available social, medical, psychological, and
- 42 educational records concerning the child to:
- 43 (A) the adoptive parent; and
- 44 (B) upon request, an adoptee who:
- 45 (i) is at least twenty-one (21) years of age; and
- 46 (ii) provides proof of identification.

SECTION 23. IC 31-19-17-4, AS AMENDED BY P.L.1-2006, SECTION 498, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The person, licensed child placing agency, or ~~county local~~ office ~~of family and children~~ shall provide:

- (1) the adoptive parent; and
- (2) upon request, an adoptee who:
 - (A) is at least twenty-one (21) years of age; and
 - (B) provides proof of identification;

with a summary of other existing social, medical, psychological, and educational records concerning the child of which the person, agency, or ~~county local~~ office has knowledge but does not have possession. If requested by an adoptive parent or an adoptee, the person, agency, or ~~county local~~ office shall attempt to provide the adoptive parent or the adoptee with a copy of any social, medical, psychological, or educational record that is not in the possession of the person, agency, or ~~county local~~ office, after identifying information has been excluded.

SECTION 24. IC 31-19-17-5, AS AMENDED BY P.L.1-2006, SECTION 499, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

(b) Upon the request of an adoptee who:

- (1) is at least twenty-one (21) years of age; and
- (2) provides proof of identification;

a person, a licensed child placing agency, or a ~~county local~~ office ~~of family and children~~ shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or ~~county local~~ office ~~of family and children~~ shall exclude from the records information that would identify the birth parents."

Page 42, line 12, strike "county" and insert "**local**".

Page 42, line 16, strike "county" and insert "**local**".

Page 57, delete lines 41 through 42.

Page 58, delete lines 1 through 12, begin a new paragraph and insert:

"SECTION 49. IC 31-33-8-12, AS AMENDED BY P.L.234-2005, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Upon completion of an ~~investigation~~, **assessment**, the department shall classify reports as substantiated, indicated, or unsubstantiated.

(b) Except as provided in subsection (c), the department shall expunge ~~investigation~~ **assessment** records one (1) year after a report has been classified as indicated under subsection (a).

(c) If the department has:

- (1) classified a report under subsection (a) as indicated; and
- (2) not expunged the report under subsection (b);

and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report."

Page 58, delete lines 33 through 42.

Delete pages 59 through 60.

Page 61, delete lines 1 through 10.

Page 62, line 35, reset in roman "child".

Page 62, line 36, reset in roman "welfare caseworkers."

Page 62, line 36, delete "family case managers."

Page 62, line 37, reset in roman "child welfare".

Page 62, line 38, reset in roman "caseworker".

Page 62, line 38, delete "family case manager".

Page 63, delete lines 20 through 42.

Page 64, delete lines 1 through 8.

Page 64, line 11, strike "6,".

Page 64, delete lines 19 through 42.

Page 65, delete lines 1 through 2, begin a new paragraph and insert:

"SECTION 56. IC 31-34-3-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) This section applies beginning October 1, 2009.**

(b) If a child is removed from the child's parents under this chapter, within thirty (30) days after the removal of a child from the parents the department shall exercise due diligence to identify and provide notice of the removal to all adult relatives of the child, including relatives suggested by the parent's relative under 42 U.S.C. 671 (a)(29).

(c) Notice under subsection (b) shall not be provided to a relative who is suspected of causing family or domestic violence.

(d) A notice under subsection (b) shall:

(1) state that the child has been removed from the parents by the department;

(2) set forth the options the relative may have under federal, state, or local laws, including the care and placement of the child and other options that may be lost if the relative fails to respond to the notice;

(3) describe the requirements for the relative to become a foster parent; and

(4) describe additional services available to the child placed in foster care."

Page 68, line 41, delete "includes assurances that the:" and insert "includes:".

Page 68, line 42, after "(A)" insert "assurances that the".

Page 69, line 3, delete "and".

Page 69, delete lines 4 through 12, begin a new line double block indented and insert:

1 **"(B) the coordination with local education agencies to**
 2 **ensure the child remains in the school where the child is**
 3 **enrolled at the time of removal; and**

4 **(C) immediate, appropriate enrollment of the child in a**
 5 **different school if remaining in the same school is not in**
 6 **the best interests of the child."**

7 Page 69, line 36, strike "county office of family and".

8 Page 69, line 37, strike "children" and insert "**local office**".

9 Page 69, line 38, after "twenty-two (22)" delete "months" and insert
 10 "months;"

11 Page 69, delete lines 39 through 41.

12 Page 70, delete lines 13 through 42, begin a new paragraph and
 13 insert:

14 "SECTION 63. IC 31-35-2-4.5, AS AMENDED BY P.L.146-2008,
 15 SECTION 616, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) This section applies if:

17 (1) a court has made a finding under IC 31-34-21-5.6 that
 18 reasonable efforts for family preservation or reunification with
 19 respect to a child in need of services are not required; or
 20 (2) a child in need of services:

21 (A) has been placed in:

22 (i) a foster family home, child caring institution, or group
 23 home licensed under IC 31-27; or

24 (ii) the home of a person related (as defined in
 25 IC 31-9-2-106.5) to the child;

26 as directed by a court in a child in need of services proceeding
 27 under IC 31-34; and

28 (B) has been removed from a parent and has been under the
 29 supervision of the department **or county probation**
 30 **department** for not less than fifteen (15) months of the most
 31 recent twenty-two (22) months, excluding any period not
 32 exceeding sixty (60) days before the court has entered a
 33 finding and judgment under IC 31-34 that the child is a child
 34 in need of services.

35 (b) A person described in section 4(a) of this chapter shall:

36 (1) file a petition to terminate the parent-child relationship under
 37 section 4 of this chapter; and

38 (2) request that the petition be set for hearing.

39 (c) If a petition under subsection (b) is filed by the child's court
 40 appointed special advocate or guardian ad litem, the department shall
 41 be joined as a party to the petition.

42 (d) A party shall file a motion to dismiss the petition to terminate
 43 the parent-child relationship if any of the following circumstances
 44 apply:

45 (1) That the current case plan prepared by or under the
 46 supervision of the department under IC 31-34-15 has documented

a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a person related (as defined in IC 31-9-2-106.5) to the child who is caring for the child as a legal guardian.

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or a permanency plan or dispositional decree approved under IC 31-34, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15, or a permanency plan or dispositional decree approved under IC 31-34; and

(C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship."

Delete pages 71 through 73.

Page 74, line 34, delete "county" and insert "**local**".

Page 74, delete lines 38 through 42.

Delete pages 75 through 76.

Page 77, delete lines 1 through 33, begin a new paragraph and insert:

"SECTION 66. IC 31-37-19-1.5, AS ADDED BY P.L.146-2008, SECTION 648, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after ~~the earlier of:~~

~~(1) the date of the child's first placement or~~

~~(2) the date of a dispositional decree.~~

that is paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes:

(A) assurances that the placement in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled;

(B) the coordination with local education agencies to ensure the child remains in the school where the child is enrolled at the time of removal; and

(C) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.

(e) Each caretaker of a child and the probation department shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or

1 other caretaker of a child the role of the substitute caretaker or facility
2 regarding the following:

3 (1) Rehabilitation of the child and the child's parents, guardians,
4 and custodians.

5 (2) Visitation arrangements.

6 (3) Services required to meet the special needs of the child.

7 (f) The case plan must be reviewed and updated by the probation
8 department at least once every one hundred eighty (180) days."

9 Page 79, delete lines 12 through 16.

10 Page 83, delete lines 15 through 42, begin a new paragraph and
11 insert:

12 "SECTION 70. IC 36-2-14-6.3, AS ADDED BY P.L.225-2007,
13 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2009]: Sec. 6.3. (a) A coroner shall **immediately** notify the
15 **local office of the department of child services by using the**
16 **statewide hotline for the department and:**

17 (1) the local child fatality review team; or

18 (2) if the county does not have a local child fatality review team,
19 the statewide child fatality review committee;

20 of each death of a person who is less than eighteen (18) years of age,
21 or appears to be less than eighteen (18) years of age. ~~and who has died~~
22 ~~in an apparently suspicious, unusual, or unnatural manner.~~

23 (b) If a child less than eighteen (18) years of age dies in an
24 apparently suspicious, unusual, or unnatural manner, the coroner shall
25 consult with a child death pathologist to determine whether an autopsy
26 is necessary. If the coroner and the child death pathologist disagree
27 over the need for an autopsy, the county prosecutor shall determine
28 whether an autopsy is necessary. If the autopsy is considered necessary,
29 a child death pathologist or a pathology resident acting under the direct
30 supervision of a child death pathologist shall conduct the autopsy
31 within twenty-four (24) hours. If the autopsy is not considered
32 necessary, the autopsy shall not be conducted.

33 (c) If a child death pathologist and coroner agree under subsection
34 (b) that an autopsy is necessary, the child death pathologist or a
35 pathology resident acting under the direct supervision of a child death
36 pathologist shall conduct the autopsy of the child."

37 Page 84, delete line 1.

- 1 Page 84, line 3, delete "IC 31-9-2-58.5;".
- 2 Page 84, delete lines 5 through 14.
- 3 Page 84, line 20, after "school" insert "**districts;**".
- 4 Page 84, delete lines 21 through 22.
- 5 Page 84, delete lines 41 through 42.
- 6 Page 85, delete lines 1 through 15.
- 7 Renumber all SECTIONS consecutively.
(Reference is to ESB 365 as printed March 24, 2009.)

Representative Brown T